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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/998,578	11/16/2001	Marcel F.C. Schemmann	11890/3	7446

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KENYON & KENYON
One Broadway
New York, NY 10004

EXAMINER

PHAN, HANH

ART UNIT	PAPER NUMBER
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2633

DATE MAILED: 09/09/2003

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/998,578

Applicant(s)

SCHEMMANN ET AL.

Examiner

Hanh Phan

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2633

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 November 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-32 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claim(s) 1-32 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____ 6) ☐ Other: _____

Election/Restrictions

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-6, drawn to a method of transmitting eight times a base data rate within a spectral range of 10 times the data rate, classified in class 398, subclass 182.
 - II. Claims 7-11, drawn to a method of reducing effects of amplified spontaneous emission in reception of a QRZ data signal, classified in class 398, subclass 147.
 - III. Claims 12-13, drawn to a method of amplifying a first signal with respect to a second signal in a fiber amplifier without generating interferometric fringing between the first and second signals, classified in class 359, subclass 341.
 - IV. Claims 14-15, drawn to a method of doubling a data rate of a received multi-channel data signal to a detector, classified in class 398, subclass 102.
 - V. Claim 16, drawn to a method of canceling phase noise in a received QRZ signal, classified in class 398, subclass 196.
 - VI. Claims 17-22, drawn to a method of reducing nonlinear effects in optical communication, classified in class 398, subclass 152.
 - VII. Claim 23, drawn to a method of rotating an I, Q constellation in the electronic domain, classified in class 375, subclass 302.

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- VIII. Claims 24-25, drawn to a method for compensating for phase noise, chromatic dispersion and high order PMD effects electronically, classified in class 398, subclass 161.
 - IX. Claims 26-27, drawn to a method of QRZ data modulation, classified in class 375, subclass 298.
 - X. Claims 28-30, drawn to a method of generating a plurality of equally spaced wavelengths, classified in class 398, subclass 149.
 - XI. Claims 31-32, drawn to a reflective modulator, classified in class 359, subclass 247.
2. The inventions are distinct, each from the other because of the following reasons:
- Inventions I, II, III, IV-X and XI are unrelated. Inventions are unrelated if it can be shown that they are not disclosed as capable of use together and they have different modes of operation, different functions, or different effects (MPEP § 806.04, MPEP § 808.01). In the instant case the different inventions. Invention I talks about to a method of transmitting eight times a base data rate within a spectral range of 10 times the data rate. Invention II talks about a method of reducing effects of amplified spontaneous emission in reception of a QRZ data signal. Invention III talks about a method of amplifying a first signal with respect to a second signal in a fiber amplifier without generating interferometric fringing between the first and second signals. Similarly for the other inventions.

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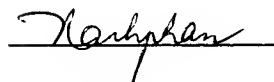
3. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

4. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hanh Phan whose telephone number is (703)306-5840.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jason Chan, can be reached on (703)305-4729. The fax phone number for the organization where this application or proceeding is assigned is (703)872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703)305-4700.



Hanh Phan

09/05/2003